

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 PAUL EARIN,

4 Plaintiff,

5 v.

6 DR. ROBERT BANNISTER, *et al.*,

7 Defendant.

Case No. 2:19-cv-02097-APG-NJK

ORDER

8
9 On February 4, 2020, Magistrate Judge Koppe ordered plaintiff Paul Earin to file a fully
10 complete application to proceed *in forma pauperis* or pay the full filing fee of \$400 no later than
11 Monday, March 9, 2020. ECF No. 6 at 1. That deadline has passed, and Mr. Earin has not filed
12 an application to proceed *in forma pauperis*, paid the full filing fee, or otherwise responded to
13 the order.

14 District courts have the inherent power to control their dockets and “[i]n the exercise of
15 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
16 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
17 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to
18 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
19 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
20 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order
21 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
22 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
23 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424
2 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local
3 rules).

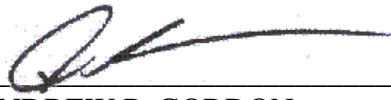
4 In determining whether to dismiss an action for lack of prosecution, failure to obey a
5 court order, or failure to comply with local rules, I must consider several factors: (1) the public's
6 interest in expeditious resolution of litigation; (2) my need to manage my docket; (3) the risk of
7 prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits;
8 and (5) the availability of less drastic alternatives. *See Thompson*, 782 F.2d at 831; *Henderson*,
9 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at
10 53.

11 Here, the first two factors (the public's interest in expeditiously resolving this litigation
12 and my interest in managing the docket) weigh in favor of dismissal. The third factor (risk of
13 prejudice to the defendants) also weighs in favor of dismissal, since a presumption of injury
14 arises from the occurrence of unreasonable delay in filing a pleading ordered by the court or
15 prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth
16 factor (public policy favoring disposition of cases on their merits) is greatly outweighed by the
17 factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
18 failure to obey the court's order will result in dismissal satisfies the "consideration of
19 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,
20 779 F.2d at 1424. Judge Koppe's order expressly stated: "IT IS FURTHER ORDERED that if
21 Plaintiff does not timely comply with this order, dismissal of this action may result." ECF No. 6
22 at 2. Thus, Earin had adequate warning that dismissal would result from his noncompliance.
23

1 I ORDER that this action is dismissed without prejudice based on plaintiff Paul Earin's
2 failure to file an application to proceed *in forma pauperis* or pay the full filing fee in compliance
3 with this court's order dated February 4, 2020.

4 I FURTHER ORDER the Clerk of Court to close the case and enter judgment
5 accordingly.

6 Dated: March 24, 2020.



ANDREW P. GORDON
UNITED STATES DISTRICT JUDGE